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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-016

Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Notice of Court Decision Not in Harmony with the Amended Final Determination of the Antidumping Duty Investigation and Notice of Second Amended Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On September 25, 2017, the United States Court of International Trade (CIT or the Court) entered a final judgment sustaining the Department of Commerce's (Department) results of remand redetermination concerning the antidumping duty (AD) investigation of certain passenger vehicle and light truck tires (passenger tires) from the People's Republic of China (PRC). The Department is notifying the public that the Court's final judgment in this case is not in harmony with the Department's amended final determination, and is therefore amending that determination with respect to the cash deposit rate for Cooper Tire & Rubber Company, Cooper (Kunshan) Tire Co., Ltd., and Cooper Chengshan (Shandong) Tire Co., Ltd. (collectively, Cooper), exporters and producers of subject merchandise.

DATES: Applicable: October 5, 2017.

FOR FURTHER INFORMATION CONTACT: Toni Page, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1398.

SUPPLEMENTARY INFORMATION:

Background

On June 18, 2015, the Department published its final determination in the AD

investigation of passenger tires from the PRC.¹ On August 10, 2015, the Department published an amended final determination and the AD order.² As part of the Department's amended final determination, the Department assigned a cash deposit rate of 11.12 percent to Cooper, which reflected an adjustment for export subsidies and estimated domestic subsidy pass-through from the companion countervailing duty (CVD) investigation of passenger tires from the PRC.³

On March 29, 2017, the Court remanded this case to the Department. Specifically, the Court directed the Department on remand to determine Cooper's AD cash deposit rate on the same basis as all other separate rate respondents and to inform the Court of the date by which the redetermined cash deposit rate would be put into effect.⁴

On April 13, 2017, the Department issued its *Results of Redetermination*,⁵ recalculating Cooper's AD cash deposit rate by adjusting its weighted-average dumping margin downward using the export subsidy rate of 13.53 percent. This export subsidy rate reflects the weighted average of the export subsidies received by the mandatory respondents in the CVD investigation and made applicable to the remaining non-mandatory separate rate respondents in the AD investigation. As a result of this adjustment, Cooper's recalculated AD cash deposit rate is 8.72 percent. The Department informed the Court that it intended to place this redetermined cash deposit rate into effect by means of instructions issued to U.S. Customs and Border Protection

¹ See *Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, In Part*, 80 FR 34893 (June 18, 2015), and accompanying Issues and Decision Memorandum (IDM) (*AD Final Determination*).

² See *Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 80 FR 47902 (August 10, 2015) (*First Amended AD Final Determination*).

³ See *Amended AD Final Determination*, 80 FR at 47904.

⁴ See *Cooper Tire & Rubber Company, et al., v. United States*, Court No. 15-00251, Slip Op. 17-32 (March 29, 2017) (*Remand Order*).

⁵ See *Results of Remand Redetermination Pursuant to Remand*, Court No. 15-00251, dated April 13, 2017, available at: <http://ia.ita.doc.gov/remands/17-32.pdf> (*Results of Remand Redetermination*).

(CBP), with an effective date as of the tenth day from the date on which the Court issues a final judgment sustaining the results of redetermination.

On September 25, 2017, the Court sustained the Department's *Results of Redetermination* in full.⁶

Timken Notice

In its decision in *Timken*,⁷ as clarified by *Diamond Sawblades*,⁸ the United States Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to sections 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not “in harmony” with a Department determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s September 25, 2017, judgment sustaining the Department’s decision in the Results of Redetermination to re-calculate the cash deposit rate for Cooper from 11.12 percent to 8.72 percent, constitutes a final decision of the court that is not in harmony with the *Amended Final Determination*. This notice is published in fulfillment of the publication requirements of *Timken*.

Second Amended Final Determination

⁶ See *Cooper Tire & Rubber Company, et al., v. United States*, Court No. 15-00251, Slip. Op. 17-130 (September 25, 2017).

⁷ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

⁸ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

Because there is now a final court decision, the Department is amending the *Amended AD Final Determination* with respect to the cash deposit rate calculated for the Cooper entities.

Based on the *Results of Redetermination*, as affirmed by the CIT in the *Cooper Remand*, the revised cash deposit rate for the Cooper companies are as follows:

Exporter/Producer	Cash Deposit Rate (Percent)
Cooper Tire & Rubber Company/ Cooper Chengshan (Shandong) Tire Co., Ltd.	8.72
Cooper Tire & Rubber Company/ Cooper (Kunshan) Tire Co., Ltd.	8.72
Cooper Chengshan (Shandong) Tire Co., Ltd./ Cooper Chengshan (Shandong) Tire Co., Ltd.	8.72
Cooper (Kunshan) Tire Co., Ltd./ Cooper (Kunshan) Tire Co., Ltd.	8.72

Cash Deposit Requirements

Since the *Amended AD Final Determination*, the Department has not established a new cash deposit rate for the above-listed companies. As a result, in accordance with section 735(c)(1)(B) of the Act, the Department will instruct CBP to collect a cash deposit of 8.72 percent for entries of subject merchandise exported and produced by the above listed companies, effective October 5, 2017. Pursuant to the Court's final judgment and order, the Department will instruct CBP to issue a refund of cash deposits in the amount of 2.4 percent on entries of certain passenger vehicle and light truck tires from the People's Republic of China exported and produced by the above-listed companies entered on or after August 6, 2015 and through and including the date of publication in the *Federal Register* of this notice.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 735(d), and 777(i)(1) of the Act.

Dated: September 28, 2017.

Carole Showers
Executive Director, Office of Policy
performing the duties of the Deputy Assistant Secretary
for Enforcement and Compliance

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